Mr. ABDUL HAMEED KHAN :—" In view of the seriousness of the allegations that have been made, will the Government consider the advisability of instituting an independent enquiry, apart from what the Collector himself says? "

The hon. Sir MAHOMED USMAN :—" There is no necessity for any enquiry. Allegations have been made and they have been repudiated in the report of the District Magistrate, and all these allegations have been proved to be false."

Mr. ABDUL HAMEED KHAN :—" I find that the allegations have been made against the officers of the district. Any useful purpose cannot be served by merely calling for report from the same persons against whom the allegations are made. Will the Government therefore consider whether it is not advisable to institute an independent enquiry? "

The hon. Sir MAHOMED USMAN :—" I do not think any independent enquiry is necessary, Sir."

[*Note.*—**An asterisk (*) at the commencement of a speech indicates revision by the Member.**]

II.—BUSINESS DURING FEBRUARY AND MARCH SITTINGS OF THE COUNCIL.

* The hon. Sir MAHOMED USMAN :—" Mr. President, Sir, with your permission, may I mention for the information of the House that, besides the days fixed in connexion with the discussion of the Budget, the House is likely to meet for the transaction of official business on the 27th and 28th February and the 1st March, and also on the 8th and 9th March? "

Diwan Bahadur B. MUNISWAMI NAYUDU :—" May the House have some information as to what the nature of the business is that is likely to engage the House? "

* The hon. Sir MAHOMED USMAN :—" The Local Boards Bill, the Central Land Mortgage Banks Bill and the Tolls Bill."

III.—A BILL TO AMEND THE MADRAS IMPARTIBLE ESTATES ACT, 1904 (BILL No. 17 OF 1933)—A. V. BHANOJI RAO.

Clause 4.

Section 9.

The House then resumed discussion of the Bill to amend the Impartible Estates Act (Bill No. 17 of 1933). Consideration of the amendment [a] of Mr. Muniswami Nayudu to clause 4 (section 9) was continued.

---

[a] *Clause* 4.

Section 9.

Diwan Bahadur B. MUNISWAMI NAYUDU :—

For clause 4 of the Bill, *substitute* the following:—

" Nothing in this Act shall affect or prejudice the rights of the creditors or of the members of the family of the person from whom the estate is acquired by exchange or purchase."

5th February 1934]

* Diwan Bahadur B. MUNISWAMI NAYUDU:—" Mr. President, Sir, the other day it was understood that the Advocate-General would examine the amendment of which I had given notice and which I moved, and also give his own draft. But I find from the reply he gave to the hon. the Raja of Bobbili that he thinks the amendment is unnecessary but that he has no objection to put it in the form of a proviso to the section. I do not know, Sir, if the Government intend to propose such a proviso."

The hon. the RAJA OF BOBBILI:—" Has the amendment been moved, Sir?"

* The hon. the PRESIDENT:—" It was moved and seconded the other day."

* The hon. the RAJA OF BOBBILI:—" I am afraid, Sir, I have to oppose the amendment now. This question has been threshed out at length on the first day. As far as I am concerned, my difficulty is to protect the unsecured debts. In the case of the previous Impartible Estates Acts passed by this House, the debts incurred by the owner of the impartible estate have been protected. In this case, the Advocate-General has already stated in the previous discussion that as regards secured debts this Bill does not propose to make any change. But as regards unsecured debts, if such a provision is made, the proposed amending Bill will be a dead letter, and I am afraid no estate owner is likely to buy or sell properties under this Act. Even ordinarily, if I purchase immovable property, I buy it subject to the mortgages or secured debts. If protection is to be given to unsecured debts, then it will be impossible to have any legal finality to these transactions. I therefore have to oppose this amnedment."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—" I am sorry, Sir, for the attitude taken up by the hon. the Raja of Bobbili. It has been urged here that the Bill as it is, if passed, will seriously affect the unsecured creditors of the person whose property is purchased or exchanged. I pointed out that in all the previous amendments of the Impartible Estates Act there has always been a provision saving the case of those creditors who are entitled to proceed against the property before the property is made impartible. No such provision is made here. In the two latest Acts also making certain estates impartible, the one relating to Mr. Muthu Chettiyar's estate and the other relating to the Sevvalpatti estate, this provision is found. Now, Sir, with regard to my amendment, we have only to proceed upon the statement of the hon. the Advocate-General that certain rights will be protected even if we do not make a special provision in that behalf. I do not think that in a Bill of this far-reaching character, we should merely stand upon the opinion of the Advocate-General alone because, after all, the courts may form their own opinions and might hold that the effect of this Bill would be really to affect the interests of the unsecured creditors. The objection raised by the hon. the Advocate-General was that the Bill

would not affect such rights and therefore such a provision as is contemplated by my amendment is unnecessary. But what we on this side feel is that while the opinion of the Advocate-General is that such a provision is unnecessary, we only want that the Legislature should definitely state that the object of the Bill is not to affect such rights but only to carry out the original object of the Bill, that is, to make the estate impartible and allow exchange of portions thereof, etc. So far as the Advocate-General is concerned, he said that in his opinion it might be unnecessary, but that it would not be wrong because it would be by way of caution to prevent disputes later on. I see the anxiety of the hon. the Raja of Bobbili, that whenever he purchases properties, he wants to make them impartible, but he does not want to take any risks with regard to unsecured debts. He does not want that anybody should come forward and say, 'you may purchase the property, but my rights are not to be affected.' That is what this amendment provides, and if it is passed, it will be only carrying out the opinion of the Advocate-General. He seems to think that if this amendment is passed, the whole Act would become a dead letter; if I may use his own words I am afraid that if this provision is not included, it would be open to him to stand up and say, 'the Bill is passed and whatever further rights are going to be affected or not, I am going to get a clear title to the purchased property.' If that is so, then I must strongly object to this House sanctioning the Bill because while the Advocate-General seems to think that the provision will not affect others' rights, the hon. the Raja of Bobbili thinks that it will affect. I think, Sir, it is not a fair way of treating this House or the creditors who advanced money on the properties now sought to be exchanged or sold by estate owners. The only proper thing to do would be to protect the rights of all parties interested in the estate. What I say is that, while on your side you see that the property is made impartible, while the hon. the Revenue Member is anixous that the rights of the zamindars are not affected, we representing the general public are anxious that the people who lent money on the property are not to be prejudicially affected. So, we merely ask that a provision to that effect should be put in there, so that we need not merely rely on the opinion of the Advocate-General, but have a specific section that, while the Act protects the rights and interests of the zamindar, it will not adversely affect the rights of the creditors who lent money to the vendors.

"I want to mention another important point. So far as this Act is concerned, the provision is that the zamindar should apply to the Collector. The Collector, as the hon. the Revenue Member put it, would not care to consider any other thing except whether the transaction is advantageous to the estate. He does not go into the question as to which other interests are going to be affected. As soon as a transaction is entered into the zamindar has only to complete the transaction by seeing that the money is paid and the sale-deed is executed, so that, so far as the zamindar is concerned, he receives the money and can say openly and publicly 'I applied to the Collector, he gave sanction to the transaction, I paid the

5th February 1934] [Mr. B. Muniswami Nayudu]

money before the sub-registrar and I have got the estate. No other claim is to be raised on it.' The other man, seller, gets the whole money, pockets it, and can say to the creditors 'I have no money to give you. You do as you please.' So, the effect of the Bill is to protect the zamindar so far as any fraudulent transaction is concerned, but not to protect at all any of those who on the strength of this property being available had advanced money. So, Sir, I think it will be the height of injustice to pass a Bill of this sort, however much they may be anxious to help the zamindars in protecting their interests."

The amendment was put and declared lost. A poll was demanded and the House divided thus:

Ayes.

1 Mr. K. R. Venkatarama Ayyar.
2 Rao Bahadur T. A. Ramalingam Chettiyar.
3 Diwan Bahadur B. Muniswami Nayudu.
4 Mr. K. P. Raman Menon.
5 ,, A. Ranganatha Mudaliyar.
6 Khan Bahadur Mahmud Schamnad Sahib Bahadur.
7 Mr. V. T. Arasu.
8 ,, A. B. Shetty.
9 ,, P. V. Krishnayya Choudari.
10 Khan Bahadur P. Khalif-ul-lah Sahib Bahadur.
11 Rao Bahadur P. C. Muthu Chettiyar.
12 Mr. M. A. Manikkavelu Nayakar.
13 ,, J. Kuppuswami Choudari.
14 ,, Mahboob Ali Baig.
15 ,, Abdul Hameed Khan.
16 ,, U. C. Subrahmanya Bhatt.
17 ,, K. A. Nachiyappa Gounder.
18 ,, G. R. Premayya.
19 ,, K. Pattabhiramayya.
20 ,, P. M. Thangal.
21 ,, K. Ahmed Meeran.
22 Rao Bahadur R. K. Venugopal Nayudu.
23 Mr. C. Krishnan.

Noes.

1 The hon. Khan Bahadur Sir Mahomed Usman.
2 ,, Diwan Bahadur Sir M. Krishnan Nayar, *Kt.*
3 ,, Sir Archibald Campbell.
4 ,, Sir Hopetoun Stokes.
5 ,, Diwan Bahadur S. Kumaraswami Reddiyar.
6 ,, Mr. P. T. Rajan.
7 ,, the Raja of Bobbili.
8 Mrs. K. Alamelumangathayaramma.
9 Zamindar of Bodinayakkanur.
10 Diwan Bahadur V. N. Viswanatha Rao.
11 Mr. J. A. Thorne.
12 ,, H. M. Hood.
13 ,, R. Madanagopal Nayudu.
14 ,, E. Conran Smith.
15 ,, A. V. Bhanoji Rao.
16 ,, M. D. T. Ranganatha Mudaliyar.
17 ,, T. Narasa Reddi.
18 ,, K. C. M. Venkatachala Reddiyar.
19 ,, M. Devadasan.
20 Mr. H. M. Jagannatham.
21 Rao Bahadur D. Krishnamurti.
22 Rao Sahib P. Subrahmanya Chetti.
23 Subadar-Major S. A. Nanjappa Bahadur.
24 Rao Bahadur R. Srinivasan.
25 Rao Sahib V. I. Muniswami Pillai.
26 Mr. M. Vedachala Mudaliyar.
27 ,, G. Sriramulu.
28 ,, P. C. Moses.
29 ,, P. V. Rajagopal Pillai.
30 Rao Sahib C. Jayaram Nayudu.
31 Diwan Bahadur A. Appadurai Pillai.
32 Rao Sahib D. V. Narasimhaswami.
33 Khan Bahadur T. M. Moidoo Sahib Bahadur.
34 Mr. K. Kesavaramamurti Nayudu.
35 ,, A. Ramakrishna Reddi.
36 ,, J. K. Metherell.
37 ,, Mr. W. W. Ladden.
38 ,, R. M. Palat.
39 ,, C. Basu Dev.
40 ,, M. B. Rangaswami Reddi.
41 Rao Bahadur Sir A. P. Patro, *Kt.*
42 ,, C. Natesa Mudaliyar.

Ayes 23. *Noes* 42.

The amendment was lost.

The hon. Sir ARCHIBALD CAMPBELL:—"I beg to move that clause 4 be omitted." 11–30 a.m.

[5th February 1934

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second it."

The amendment was put and carried.

The Preamble was then put and carried.

Mr. A. V. BHANOJI RAO:—"Mr. President, Sir, I move that the Bill, as amended, be passed into law."

Mr. C. BASU DEV:—"I second it."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"I oppose it. Sir, when the Bill was introduced, I was one of those who supported the principle of it. This Bill is designed to create more impartible estates than are existing at the present time. It is designed to enable impartible estates holders to add to their estates by purchase or otherwise. I do not think any one in this House will object to the principle of the Bill. But in a matter of this sort, the Government should have stayed their hands and held the scales even between the interests of the estate holders and the other people interested. It has been stated on the floor of this House by the hon. the Revenue Member that the Government would allow the Bill to go through. Is it not the duty of the Government to consider to what extent this Bill will affect the interests of the creditors of these estates? Is it not their duty to protect the rights of those people? Has the Collector been vested with full power to protect the rights of people who have advanced money on the security of these estates? The Government, with a view to vest absolute title in others, have got powers under the Land Acquisition Act, etc. In those Acts provision exists to protect the interests of people on the property to be acquired and, in certain cases, a certain proportion of the purchase value is required to be deposited in court. We do not find any such provision here. On the other hand the hon. the Revenue Member openly said in this House that he would resist every attempt to saddle the Collector with further duties in this matter. Is it not right to protect the interests of persons who have advanced money to these estate holders? We moved amendments to safeguard their interests. In the opinion, however, of the Advocate-General, who unfortunately is absent today, a provision similar to that found in section 7 of the original Act, is not necessary here. The effect of the amended Bill is that as soon as the purchase is completed or the exchange is effected, the property would become impartible for all the purposes of the Impartible Estates Act of 1904. The property could not thereafter be alienated or sold by the court. Section 5 of the Act mentions the kinds of debts that would be binding on the estate of the members of a joint family. After an estate is acquired under this Act it becomes inalienable under section 4 and no court can proceed against it. But the Advocate-General says that the rights of all persons will not be affected and that they will be entitled to proceed against the property. The rights of the decree-holders are ignored. It is said that these decree-holders can attack the transaction on the ground of fraud obtaining a certificate from the Collector. I feel that this is not the case. Whatever may be the effect of this Bill on new properties, it is absolutely ignoring the rights of persons who have lent moneys. The spirit with which this

5th February 1934] [Mr. B. Muniswami Nayudu]

Bill is tried to be passed by the hon. the Raja of Bobbili who can be said to be the representative of the landed classes is clear when the Raja said that the effect of my amendment will be to make the Bill a dead letter and leaving persons aggrieved to seek their own remedies. That ought not to be the spirit with which this Bill ought to be passed. This is, in its nature, a private Bill intended to protect private interests; but in doing so it should safeguard the interests of those concerned with the estates. I appeal to the hon. the Revenue Member and to the hon. the Law Member also to see that, though this Bill is passed with the majority behind them, before His Excellency gives his assent to it, the provisions there should be very carefully considered and if necessary the interests of thousands of people who have advanced money on these securities are secured."

* Rao Bahadur Sir A. P. PATRO:—" Sir, it is a pity that the hon. Member who is ordinarily a very clear thinker should get confused in this very simple matter. This is a simple matter intended to facilitate the exchange or purchase of impartible estates. The hon. Member has been very vehemently saying that the interests of money-lenders who have advanced money to these estates have not been safeguarded and therefore the Bill ought not to be passed by this House. He forgets that the object of the Bill is only to enable impartible estate-holders having properties far and away from their main holdings to dispose of them and buy estates or parts of estates in their vicinity with a view to help them to manage their property well. That is all the object of this Bill. As regards the interests created by people who have lent money to these estates, their rights remain, as asserted by the Advocate-General. That being the case I do not see any point in the objection raised by the hon. Member.

" The hon. Member has laid emphasis on the fact that this is in the nature of a private Bill and that the Government ought not to help in passing it. It is not in the nature of a private Bill. It affects the interests of impartible estate-holders on whose behalf the Government passed the Impartible Estates Act of 1904. Section 4 of that Act does not at all stand in the way of any creditor enforcing his right in a partible property which has been taken in exchange. The two ideas are quite different and are not at all conflicting in their nature. I therefore do not see any objection to the passing of this Bill."

The motion was put and carried and the Bill was passed into law.

IV.—THE PERIYAR IRRIGATION TANKS (PRESERVATION) BILL (BILL No. 16 OF 1933).

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I beg to present the report[a] of the Select Committee on the Periyar Irrigation Tanks (Preservation) Bill, Bill No. 16 of 1933, and move that the Bill, as amended by the Select Committee, be taken into consideration."

[a] Printed as Appendix VI on pages 556—569 infra.